

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 6:001. Definitions for 301 KAR Chapter 6.

RELATES TO: KRS Chapter 235

STATUTORY AUTHORITY: KRS 235.280~~[320]~~

NECESSITY, FUNCTION, AND CONFORMITY: To define the terms used in 301 KAR Chapter 6. ~~[This amendment is necessary to add definitions for "Type V personal flotation device" and "manually propelled racing vessels".]~~

Section 1. Definitions. (1) "Adequate ventilation" means ventilation ~~that~~that[which] met Boating Industry Association and U.S. Coast Guard requirements at the time the vessel was manufactured.

(2) "Airborne device" means a kite, parachute or similar device ~~that~~that[which] holds a person aloft when towed behind a moving vessel.

(3) "Class A" means vessels less than sixteen (16) feet in length.

(4) "Class 1" means vessels sixteen (16) feet or over and less than twenty-six (26) feet in length.

(5) "Class 2" means vessels twenty-six (26) feet or over and less than forty (40) feet in length.

(6) "Class 3" means vessels forty (40) feet or more in length.

(7) "Crossing" means a situation in which a vessel approaches es another from an angle of 112.5 degrees or less from either side of the bow.

(8) "Documented by the federal government" means a vessel ~~that~~that[which] has been registered with, and issued official registration documents by, the United States Coast Guard.

(9) "Idle speed" means the slowest possible speed at which maneuverability can be maintained.

(10) "International diving flag" means a red flag with a white stripe running diagonally from an upper corner to the opposite lower corner.

(11) "Length" means the longest dimension of a boat measured along the centerline from the bow to the stern, but not including outboard motors, swim platforms, or similar attachments.

(12) "Manually propelled racing vessel" means a racing shell, rowing scull, racing canoe or racing kayak recognized by national or international racing associations or use in competitive racing, and not designed to carry or not carrying equipment not solely for competitive racing.

(13) "Overtaking" means a situation in which a faster vessel approaches a slower vessel from an angle of more than 112.5 degrees from either side of the bow of the slower vessel.

(14) "Passing" means a situation in which vessels approach and pass each other from head on or nearly so.

(15) "Type I" means a personal flotation device:

(a) Designed to turn an unconscious person in the water from a face-downward position to a vertical or slightly backward position; and

(b) Having more than twenty (20) pounds of buoyancy.

(16) "Type II" means a personal flotation device:

(a) Designed to turn an unconscious person in the water from a face-downward position to a vertical or slightly backward position; and

(b) Having at least fifteen and one-half (15.5) pounds of buoyancy.

- (17) "Type III" means a personal flotation device:
- (a) Designed to keep a conscious person in a vertical or slightly backward position; and
 - (b) Having at least fifteen and one-half (15.5) pounds of buoyancy.
- (18) "Type IV" means a personal flotation device:
- (a) Designed to be thrown to a person in the water and not worn; and
 - (b) Having at least sixteen and one-half (16.5) pounds of buoyancy.
- (19) "Type V" means a special use personal flotation device intended and approved by the U.S. Coast Guard for specific activities.
- (20) "Water skis" means rigid or inflatable skis, kneeboards, tubes, wakeboards or similar devices. ~~[upon or in which a person is towed behind a moving vessel.]~~
- (21) "Water skiing" means:
- (a) The act of riding in or upon water skis while being towed behind a moving vessel or propelled by a boat's wake or while riding on/in a boat's wake directly behind a vessel that is underway; or
 - (b) Barefoot skiing.

RICH STORM, Commissioner

MIKE E. BERRY, Secretary

APPROVED BY AGENCY: July 14, 2021

FILED WITH LRC: August 5, 2021 at 9:22 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021 at 2:00 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through October 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Beth Frazee, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Beth Frazee

(1) Provide a brief summary of:

(a) What the administrative regulation does: It provides definitions for terms used in 301 KAR chapter 6.

(b) The necessity of the administrative regulation: The terms defined are not commonly understood or do not follow the commonly understood meaning of the terms.

(c) How does this administrative regulation conform to the authorizing statute: KRS 235.280 grants authority for the Commissioner, with approval of the Department of Fish and Wildlife Resources Commission, to promulgate regulations to govern the use of all waters of the state.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides valuable details as to how terms will be interpreted in other

regulations under 301 KAR Chapter 6.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation: The statutory authority is updated, changes are made to improve readability, and definitions are amended to address wakeboards and wakeboarding.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to enhance safety for persons engaged in recreation upon the waters of the Commonwealth.

(c) How does the amendment conform to the authorizing statutes: It addresses the fair, reasonable, equitable, and safe use of the waters of the Commonwealth consistent with the dictates of KRS 235.280.

(d) How the amendment will assist in the effective administration of the statutes: It will allow existing safety regulations to apply to wakeboarding, which has become a more popular recreational activity in recent years.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: All individuals utilizing the waters of the Commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individuals enjoying wakeboarding will have to comply with the safety restrictions applicable to skiing found within other 301 KAR Chapter 6 regulations. Individuals engaged in other activities will not have to do any additional actions to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendments will increase safety of those participating in wakeboarding and other recreation activities upon the waters of the Commonwealth.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There should be no additional initial costs to implement this amendment.

(b) On a continuing basis: There should be no additional continuing costs to implement this amendment.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The Fish and Game fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees. This regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? Tiering is not applied as the definitions of the terms will be equally applicable to all individuals.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Fish and Wildlife Resources, Division of Law Enforcement.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 235.280

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer the amendments for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer the amendments for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: